

REMARKS

Claims 1-20 were originally filed in the present application.

Claims 1-20 are pending in the present application.

Claims 1-20 were rejected in the May 28, 2008 Office Action.

No claims have been allowed.

Claims 1-20 remain in the present application.

Reconsideration of the claims is respectfully requested.

In the May 28, 2008 Office Action, the Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,292,838 to *Nelson* (hereinafter, simply “Nelson”) in view of U.S. Patent Application No. 2002/0039357 to *Lipasti, et al.* (hereinafter, simply “Lipasti”) and further in view of U. S. Patent Application No. 2002/019573 to *Whitehill, et al.* (hereinafter, simply “Whitehill”).

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP* § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992).) The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. (*MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984).) Only when a *prima facie* case of obviousness is established does the burden shift to the Applicant to produce evidence of non-obviousness. (*MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In*

re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993).) If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the Applicant is entitled to grant of a patent. (*In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).)

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must not be based on the Applicant's disclosure. (*MPEP* § 2142).

The Applicant respectfully disagrees and traverses the §103 rejections. The Applicant directs the Examiner's attention to independent Claim 1, which recites the unique and novel elements, including those emphasized below:

1. For use in a mobile ad hoc network formed by a plurality of mobile ad hoc network (MANET) nodes, a first MANET node capable of routing data packets, said first MANET node comprising:
 - a radio frequency (RF) transceiver capable of wirelessly communicating with other ones of said plurality of MANET nodes; and
 - a controller capable of receiving incoming data packets from said RF transceiver and sending outgoing data packets to said RF transceiver, *wherein said controller is further capable of implementing a MANET routing protocol at a medium access control (MAC) layer by, at the MAC layer, (i) intercepting a first data packet associated*

with at least one of the incoming data packet and the outgoing data packet, (ii) determining a first MAC layer address associated with said first data packet, and (iii) adding said first MAC layer address to said first data packet. [Emphasis Added]

The examiner concedes “Nelson and Lipasti fail to disclose implementing a MANET routing at a medium access control (MAC) layer”. (Pg. 4, ll. 16-17, Office Action dated May 28, 2008). In order to cure this deficiency, the Examiner asserts that “Whitehall teaches .. a MANET routing protocol **at a medium access control (MAC) layer** (paragraph 8 ...). (Emphasis Added, Pg. 4, ll. 18-19, Office Action dated May 28, 2008). For the purpose of clarity, the cited section of Whitehall is reproduced below:

[0008] In a typical MANET protocol stack, the MAC layer 14 is specified in the IEEE 802.11 standard for wireless local area networks (LANs) and utilizes a Carrier Sense Multiple Access with Collision Avoidance (CSMA/CA) protocol. As can be appreciated by one skilled in the art, the CSMA/CA protocol may involve initial handshakes of a Request-to-Send (RTS) message followed by a Clear-to-Send (CTS) or Not-Clear-to-Send (NCTS) message exchanged between a source node and a destination node prior to sending the multimedia (voice, video, data) message. Afterward, an Acknowledgement (ACK) message or Non-Acknowledgement (NACK) message may be sent from the destination node to the source node to indicate reception of the transmitted message. *Layered above the MAC layer 14 is the routing internet protocol (IP) layer 16, which includes other Internet protocols schemes, such as Internet control message and Internet group management protocol.* [Emphasis Added]

Whitehall teaches “Layered above the MAC layer 14 is the routing internet protocol (IP) layer 16” unlike the presently claimed MANET routing protocol at a medium access control (MAC) layer. Routing above the MAC layer is not the same thing as the claimed MANET routing

protocol at a MAC layer. Therefore, Applicants respectfully submit that Whitehall does not cure the deficiencies of Nelson and Lipasti.

Similar to independent Claim 1, independent Claim 11 recites “at a medium access control (MAC) layer, intercepting a first data packet associated with at least one of an incoming data packet and an outgoing data packet; at the MAC layer, determining a first MAC layer address associated with the first data packet; and at the MAC layer, adding the first MAC layer address to the first data packet.” Accordingly, for the reasons discussed above in connection with Claim 1, independent Claim 11 is not made obvious by the cited art. Therefore, the Applicant respectfully submits that this rejection should now be withdrawn.

Dependent Claims 2-10, which depend from independent Claim 1, and dependent Claims 12-20, which depend from independent Claim 11, are also not made obvious by the cited art because they include the limitations of their respective base claims and add additional elements that further distinguish the art. Therefore, the Applicant respectfully submits that these rejections should now be withdrawn.

The Applicants disagree with the Examiner’s rejections of Claims 1-20 based on misdescriptions and/or misapplications of *Nelson, Lipasti, Whitehall* to at least some of Claims 1-20. However, the Applicant’s arguments regarding those other shortcomings of *Nelson, Lipasti, Whitehall* are moot in view of the Claim 1 arguments above. However, the Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of *Nelson,*

Lipasti, Whitehall to the claims of the present application, including the right to dispute assertions made by the Examiner in the May 28, 2008 Office Action.

SUMMARY

For the reasons given above, the Applicants respectfully request reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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